

FILED 09 JUL '14 15:19 USDC-ORP

**UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION**

UNITED STATES OF AMERICA,

Case No. 3:14-cr-00282-KI

v.

INDICTMENT

**TUNG WING HO, KYLE KEOKI
YAMAGUCHI, and JASON MICHAEL
KEATING,**

**18 U.S.C. §§ 371, 981(a), 1343,
2314, 2315, and 28 U.S.C. § 2461(c)**

Defendants.

Forfeiture Allegation

THE GRAND JURY CHARGES:

INTRODUCTION

At all times relevant to this Indictment:

1. Defendant **TUNG WING HO** was an employee at the worldwide headquarters of Nike, Inc., in Beaverton, Oregon. Nike is the world's leading producer of athletic footwear and apparel.
2. From approximately January 2012 to March 2014, **TUNG WING HO** was a promotional product manager for Nike's basketball division. As a promotional product manager, **HO** was responsible for generating interest in Nike products by providing unique styles of Nike basketball shoes to famous athletes and other celebrities—as well as members of their entourages—to wear while in the public eye. **HO** was authorized to obtain these promotional shoes by ordering them directly from Nike's manufacturing facilities in China. **HO** also used this process to order extra, unauthorized, pairs of the promotional shoes for himself. When the extra

shoes arrived at Nike's headquarters, **HO** would steal them and take them to his home in Portland, Oregon.

3. Defendant **KYLE KEOKI YAMAGUCHI** worked at Nike, Inc., until January 2012. **YAMAGUCHI** was **HO's** predecessor as a promotional product manager in Nike's basketball division and had worked in that capacity since joining Nike in July 2006. During his tenure, **YAMAGUCHI** took hundreds of pairs of Nike sneakers for his personal collection. Many of these sneakers were factory samples that were freely available to Nike employees for personal use; others he ordered for himself from Nike's manufacturing facilities in China. When **HO** succeeded **YAMAGUCHI** as the promotional product manager, **YAMAGUCHI** advised **HO** that he could conceal the scope of promotional shoe orders by billing them to different "cost centers" in Nike's system.

4. Defendant **KYLE KEOKI YAMAGUCHI** left Nike to launch Look/See, a firm in Portland, Oregon, that designs and sells sunglasses inspired by iconic sneaker designs. To promote Look/See, **YAMAGUCHI** displayed the firm's eyewear at sneaker-collector conventions next to rare sneakers that he had acquired while working for Nike.

5. Defendant **JASON MICHAEL KEATING** resides in Ft. Myers, Florida. He uses personal contacts and social media (under the pseudonym "Artaphax") to sell rare sneakers to private collectors. Such collectors frequently pay thousands of dollars for a single pair of rare Nike basketball shoes.

COUNT ONE

(Conspiracy to Transport, Receive, and Sell Stolen Goods, 18 U.S.C. § 371)

6. The factual allegations contained in Paragraphs 1 through 5 of this Indictment are re-alleged and incorporated herein.

7. Starting not later than August 2012 and continuing through approximately March 2014, within the District of Oregon and elsewhere, defendants **TUNG WING HO, KYLE KEOKI YAMAGUCHI**, and **JASON MICHAEL KEATING** with each other and with others, both known and unknown to the grand jury, unlawfully and knowingly agreed, combined, and conspired to transport, receive, possess, and sell stolen goods that have traveled in interstate or foreign commerce, to wit, basketball shoes stolen from Nike, Inc., in violation of Title 18, United States Code, Sections 2314 and 2315.

MANNER AND MEANS

8. Defendants **TUNG WING HO** and **KYLE KEOKI YAMAGUCHI** agreed in July 2012 to work together to sell rare Nike sneakers that **HO** had acquired and would acquire through his position as promotional product manager at Nike, Inc. They agreed that **YAMAGUCHI** would take a twenty-percent commission on the sale of any shoes that **HO** sold through **YAMAGUCHI**.

9. In August 2012, defendant **JASON MICHAEL KEATING** contacted defendant **KYLE KEOKI YAMAGUCHI** to solicit the sale of “unreleased & rare pairs” of Nike sneakers. **YAMAGUCHI** first agreed to sell **KEATING** sneakers from his own collection and then negotiated sales of larger lots of shoes that he acquired from **TUNG WING HO**. **YAMAGUCHI** led **KEATING** to believe that the shoes from **HO** had been stolen or otherwise purloined directly from the Chinese factory by a confederate in China.

10. After **JASON MICHAEL KEATING** paid for the shoes, **KYLE KEOKI YAMAGUCHI** would cause them to be transported from his residence in Portland, Oregon, to **KEATING** in Florida.

11. From September 2012 to March 2014, **JASON MICHAEL KEATING** paid **KYLE KEOKI YAMAGUCHI** approximately \$679,650 for more than 630 pairs of shoes that **YAMAGUCHI** and **TUNG WING HO** had stolen from Nike, Inc.

OVERT ACT IN FURTHERANCE OF THE CONSPIRACY

12. To accomplish the objectives of the conspiracy and in furtherance thereof, defendants, in the District of Oregon and elsewhere, perpetrated, among other acts, the following:

13. On or about April 25, 2013, in consideration of a cash payment of \$62,000, defendant **KYLE KEOKI YAMAGUCHI** caused to be shipped from Portland, Oregon, to defendant **JASON MICHAEL KEATING** at an address in the State of Florida approximately 42 pairs of shoes that defendant **TUNG WING HO** had stolen from Nike, Inc.

All in violation of Title 18, United States Code, Section 371.

COUNTS TWO AND THREE
(Wire Fraud, 18 U.S.C. § 1343 — HO)

1. The allegations set forth in Paragraphs 1 through 13 of Count One of this Indictment are re-alleged and incorporated by reference as if fully set forth in each count herein.

2. From not later than May 2012 and continuing to March 2014, defendant **TUNG WING HO** devised and intended to devise a material scheme to defraud Nike, Inc., and to obtain money and property by means of materially false and fraudulent pretenses and representations, in that **HO** placed orders with Nike's manufacturing facilities in China for sample and promotional sneakers while falsely purporting to act on behalf of and with the authority of Nike, Inc., while in truth and in fact, **HO** then and there intended to convert those sneakers to his own personal and unauthorized use.

3. On or about each of the dates set forth below, in the State and District of Oregon, defendant **TUNG WING HO**, for the purpose of executing the material scheme described above, caused to be transmitted by means of wire communication in interstate and foreign commerce the signals and sounds described below for each count, each transmission constituting a separate count of this Indictment:

Count	Date	Shoes Ordered	Wire Communication
2	May 14, 2012	15 pairs of "LEBRON 9" basketball shoes	Internet Transmission
3	May 27, 2012	31 pairs of "LEBRON 9" basketball shoes	Internet Transmission

All in violation of Title 18, United States Code, Section 1343.

COUNT FOUR

(Interstate Transportation of Stolen Goods, 18 U.S.C. § 2314 — YAMAGUCHI)

1. The allegations set forth in Paragraphs 1 through 13 of Count One of this Indictment are re-alleged and incorporated by reference as if fully set forth in each count herein.

2. On or about the 27th day of February 2014, in the District of Oregon, the defendant, **KYLE KEOKI YAMAGUCHI**, did transport and cause to be transported in interstate commerce from the State of Oregon to the State of Florida goods and merchandise worth more than \$5,000, knowing the same to have been stolen, converted, or taken by fraud, in violation of Title 18, United States Code, Section 2314.

COUNT FIVE

(Receipt of Stolen Goods, 18 U.S.C. § 2315 — KEATING)

1. The allegations set forth in Paragraphs 1 through 13 of Count One of this Indictment are re-alleged and incorporated by reference as if fully set forth in each count herein.

2. On or about the 3rd day of March 2014, in the District of Florida, the defendant, **JASON MICHAEL KEATING**, did receive and possess goods and merchandise worth more

than \$5,000 that had crossed the boundaries of the States of Oregon and Florida after being stolen, unlawfully converted, or taken, knowing the same to have been stolen, unlawfully converted, or taken, in violation of Title 18, United States Code, Section 2315.

FORFEITURE ALLEGATION

1. Upon conviction of Count One of this Indictment, defendants **TUNG WING HO, KYLE KEOKI YAMAGUCHI, and JASON MICHAEL KEATING** shall forfeit to the United States, pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c), any property constituting or derived from proceeds obtained directly or indirectly as a result of the said violation, including but not limited to a sum of money equal to \$679,650.00 in United States currency, representing the proceeds obtained as a result of the interstate transportation and sale of stolen merchandise, in the form of a money judgment.

If any of the above-described forfeitable property, as a result of any act or omission of the defendants **TUNG WING HO, KYLE KEOKI YAMAGUCHI, or JASON MICHAEL KEATING:**

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third party;
- (c) has been placed beyond the jurisdiction of the court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to 21 U.S.C. § 853(p) as incorporated by

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18 U.S.C. § 982(b), to seek forfeiture of any other property of defendants **TUNG WING HO**, **KYLE KEOKI YAMAGUCHI**, and **JASON MICHAEL KEATING** up to the value of the forfeitable property described above.

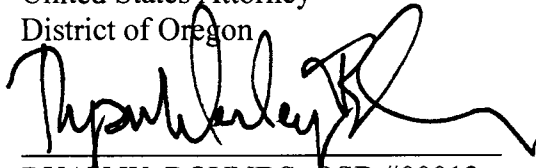
DATED this 9 day of July 2014.

A TRUE BILL.


OFFICIATING FOREPERSON

Presented By:

S. AMANDA MARSHALL, OSB #95347
United States Attorney
District of Oregon



RYAN W. BOUNDS, OSB #00012
Assistant United States Attorney